

REMARKS/ARGUMENTS

This amendment responds to the Office Action dated August 29, 2008 in which the Examiner rejected claims 1 and 7 under 35 U.S.C. § 112 first and second paragraphs and stated that claims 2-6 and 8-11 are allowed.

Applicant respectfully traverses the Examiner's statement that the Information Disclosure Statement filed September 27, 2004 fails to comply with the provisions of 37 C.F.R. 1.97, 1.98 and MPEP § 609 because the Applicant failed to provide translations in English of the cited Japanese patents or a concise explanation of relevance. Applicants respectfully point out that MPEP § 609.04 (a) states on page 600-153 second column, last two lines to page 600-154 first column, lines 1-6 "Where the information listed is not in the English language, but was cited in search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office" (emphasis added). Applicant respectfully points out that the present application is the National Stage filing of an International Application. Furthermore, Applicants respectfully point out that the English translation of the Search Report for the International Application which states the relevance found by the Foreign Office was filed with the Information Disclosure Statement. Therefore, Applicant respectfully submits that the Information Disclosure Statement filed September 27, 2004 complies with part three of 37 C.F.R. § 1.98 since a concise explanation of the relevance was presented by the English-language version of the Search Report. Therefore, Applicant respectfully requests the Examiner considers the references cited in the Information Disclosure Statement filed September 27, 2004.

As indicated above, claims 1 and 7 have been amended to contain subject matter which is described in the specification (page 10, lines 23 and 24; as well as on page 16, line 26 through page 17, line 14) in such a way as to enable one skilled in the art to make and/or use the invention. Furthermore, Applicant has amended claims 1 and 7 to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 1 and 7 under 35 U.S.C. § 112 first and second paragraphs.

Thus, it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested. Should the Examiner find that the application is not now in condition for allowance, Applicant respectfully requests the Examiner enters this Amendment for purposes of appeal.

CONCLUSION

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicant respectfully petitions for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

In the event that any additional fees are due with this paper, please charge to our Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant

By 

Ellen Marcie Emas
Reg. No. 32,131
(202) 292-1530

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